

Assembly Bill No. 1043

CHAPTER 806

An act to add Sections 7284.6 and 7284.7 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 8, 1997. Filed
with Secretary of State October 9, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1043, Committee on Revenue and Taxation. Taxation.

(1) The Sales and Use Tax Law provides, subject to certain exceptions, that it is unlawful for the State Board of Equalization, or certain persons having an administrative duty under that law or access to information with respect to sales or transactions and use taxes collected by that board, to make known or allow the disclosure or examination of certain information or documents.

This bill would, as provided, make it unlawful for any local jurisdiction imposing a utility tax, or certain persons with duties on behalf of that jurisdiction who obtain access to information with respect to that tax, to disclose or allow the examination of certain tax-related information or documents. This bill would specify that a violation of these provisions is a misdemeanor. By creating a new crime, this bill would establish a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 7284.6 is added to the Revenue and Taxation Code, to read:

7284.6. (a) It is unlawful for any local jurisdiction, including any employee, officer, authorized agent, or contractor of the local jurisdiction, to permit any utility user's tax return or copy thereof, or any records of any payment of utility user's tax, to be seen or examined by, or disclosed to, any person who is not one of the following:

(1) An employee, officer, authorized agent, or contractor of the local jurisdiction with administrative or compliance responsibilities relating to the utility user's tax ordinance.

(2) An employee of the utility or other company that is required to report or pay a utility user's tax to the local jurisdiction, and that furnished the records or information.

(b) Notwithstanding subdivision (a), this section does not prohibit a local jurisdiction from doing any of the following:

(1) Disclosing to a taxpayer information derived from the records of a utility or other utility service provider, if the information is used to calculate the utility user's tax of that taxpayer; or, disclosing that information in a tax collection action, provided that that information is subject to a protective order issued by a court.

(2) Disclosing to a tax officer of the state or federal government, pursuant to a written reciprocal agreement, information derived from the records of a utility or other utility service provider, if the information is used to calculate the local utility user's tax.

(3) Disclosing the gross utility user's tax revenues collected from the customers of a utility that is owned or operated by the local jurisdiction that imposes the utility user's tax.

(c) For purposes of this section:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city or city and county, district, or public or municipal corporation.

(2) "District" means any agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions within limited boundaries.

(d) Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court.

(e) This section shall not be construed to prohibit the divulging of information to the State Board of Equalization for the purposes of its administration of the Energy Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division 2 of the Revenue and Taxation Code).

(f) Any information subject to subdivision (a) shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code), except that nothing in this section shall be construed to prohibit the disclosure of records pursuant to Section 6254.16 of the Government Code.

SEC. 2. Section 7284.7 is added to the Revenue and Taxation Code, to read:

7284.7. (a) It is unlawful for any employee, officer, authorized agent or contractor of a local jurisdiction levying a utility user's tax, that obtains access to information contained in utility user tax records of a local jurisdiction, to disclose any information obtained from the records of a utility or other company required to report or pay a utility user's tax to the local jurisdiction as a result of an audit, or any

other information obtained in the course of an on-site audit, to any person who is not an employee, officer, authorized agent, or contractor of the local jurisdiction with administrative or compliance responsibilities relating to the utility user's tax ordinance.

(b) Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court.

(c) This section shall not be construed to prohibit the divulging of information to the State Board of Equalization for the purposes of its administration of the Energy Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division 2 of the Revenue and Taxation Code).

(d) Notwithstanding subdivisions (a) and (b), this section shall not be construed to prohibit an employee, officer, authorized agent, or contractor of a local jurisdiction levying a utility user's tax from doing any of the following:

(1) Disclosing to a taxpayer information derived from the records of a utility or other utility service provider, if the information is used to calculate the utility user's tax of that taxpayer; or, disclosing that information in a tax collection action, provided that the information is subject to a protective order issued by a court.

(2) Disclosing to a tax officer of the state or federal government, pursuant to a written reciprocal agreement, information obtained from the records of a utility or other utility service provider, if the information is used to calculate the local utility user's tax.

(3) Disclosing the gross utility user's tax revenues collected from the customers of a utility that is owned or operated by the local jurisdiction that imposes the utility user's tax.

(e) For purposes of this section:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city or city and county, district, or public or municipal corporation.

(2) "District" means any agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions within limited boundaries.

(f) Nothing in this section shall be construed to create an exemption from disclosure under subdivision (k) of Section 6254 of the Government Code, or to prohibit the disclosure of records pursuant to Section 6254.16 of the Government Code or subdivision (i) of Section 6254 of the Government Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government

Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

